

**KENTUCKY PERSONNEL BOARD
MINUTES OF SEPTEMBER 9, 2011**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on September 9, 2011, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David B. Stevens, Member
David F. Hutcheson, Jr., Member
Susan Gardner, Member
Tommy W. Chandler, Member
Donald W. "Don" Blevins, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD AUGUST 12, 2011**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Dr. Stevens moved to approve the minutes, as submitted. Judge Chandler seconded, and the motion carried 7-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek stated that, as discussed at the September Board meeting, copies of the Commonwealth Office of Technology policies [CIO-060, Internet and E-mail Policy, and CIO-061, Social Media Policy] were provided in today's Board packet.

Proposed Amendment to 101 KAR 1:335, Employee Actions

Mr. Sipek stated that the major amendments to the regulation were updating the Personnel Cabinet's address and amending, at the request of the Personnel Cabinet, the Voluntary/Demotion Salary Retention Agreement Form, which is incorporated therein.

Mr. Hutcheson moved to accept the amendments to 101 KAR 1:335. Dr. Stevens seconded and the motion carried 7-0.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. PERSONNEL CABINET'S REPORT

The Hon. Dinah Bevington, on behalf of the Personnel Cabinet, came forward to present the Cabinet's report.

Ms. Bevington advised that open enrollment for the Kentucky Employees' Health Plan for 2011 will be October 10 through October 28, 2011. This is a passive open enrollment, which means if an employee wants to keep his present health care plan there is no need to re-enroll. The benefits analyzer will not be on-line, but information will be mailed to employees. Flu Shots will be available September 15 through December 15, 2011, and all co-pays will be waived. There will be Benefit Fairs in ten locations. The one for Franklin County will be on October 10, 2011. Dr. Stevens asked about wellness plans. Ms. Bevington stated that employees were encouraged to follow wellness through Virgin Healthmiles, which offered incentives such as drawings for prizes and awards.

The Governor's Ambassador Awards is scheduled for October 6, 2011, and the Governor's EEO Conference is scheduled for October 18, 2011.

Ms. Bevington stated that the Tourism, Arts and Heritage Cabinet has a permit to sell alcohol at five state parks: General Butler, Lake Barkley, Audubon, My Old Kentucky Home and Jenny Wiley. Employees (i.e., servers, park managers, etc.) will be trained appropriately. Class specifications and policies will be changed accordingly. This took effect August 1.

5. **ORAL ARGUMENTS**

A. Michael Eckerle v. Transportation Cabinet

Present for oral argument was counsel for Appellee, the Hon. Will Fogle. The Appellant, Michael Eckerle, was given notice of oral argument but was not present. The Appellee answered questions from the Board.

B. Laura Penn v. Justice and Public Safety Cabinet

Present for oral argument were counsel for Appellant, Hon. Paul Fauri, and counsel for Appellee, the Hon. Scott West. The parties answered questions from the Board.

6. **INVESTIGATIONS – NONE**

Mr. Sipek stated that the Board does not have any new investigations on the agenda. However, there are some continuing investigations that may possibly be ready soon for the Board to review.

7. **CLOSED SESSION**

Mr. Hutcheson moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Ms. Gardner seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (10:38 a.m.)

Mr. Hutcheson moved to return to open session. Mr. Gillis seconded and the motion carried 7-0. (12:24 p.m.)

8. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. Michael Eckerle v. Transportation Cabinet

Mr. Hutcheson moved to note Appellee's exceptions and oral argument and to defer this matter to the next meeting of the Board. Mr. Gillis seconded and the motion carried 7-0.

B. Laura Penn v. Justice and Public Safety Cabinet/Public Advocacy
(Deferred from August Meeting)

Dr. Stevens moved to note Appellee's exceptions, Appellee's request for oral argument (untimely), Appellant's response and oral argument and to defer this matter to the next meeting of the Board. Judge Chandler seconded and the motion carried 7-0.

C. John Lane v. Justice and Public Safety Cabinet

Dr. Stevens moved to note Appellant's exceptions, Appellee's response and to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 7-0.

D. Bettina Conard v. Justice and Public Safety Cabinet

Mr. Gillis moved to accept the recommended order dismissing the appeal. Ms. Gardner seconded and the motion carried 7-0.

E. Alonzo Daniel v. Justice and Public Safety Cabinet

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

F. Linda Durham v. Justice and Public Safety Cabinet

Mr. Gillis moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

G. Mary L. Durrett v. Justice and Public Safety Cabinet

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

H. Frankie Justice v. Transportation Cabinet

Mr. Blevins moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

I. John Tye v. Cabinet for Health and Family Services

Dr. Stevens moved to accept the recommended order sustaining the appeal. Mr. Hutcheson seconded and the motion carried 7-0.

J. Jennifer Williamson v. Justice and Public Safety Cabinet

Mr. Gillis moved to accept the recommended order dismissing the appeal. Ms. Gardner seconded and the motion carried 7-0.

K. Marlene Wright v. Cabinet for Health and Family Services

Mr. Hutcheson moved to note Appellant's exceptions (returned as untimely) and to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

Show Cause Orders – No Responses Filed – Appeals Dismissed

The following cases had a show cause order entered by the hearing officer recommending that the appeals be dismissed for failure to timely prosecute unless a statement was filed by the Appellants stating sufficient cause to excuse their failure to appear at the scheduled hearing. There was no response submitted by the Appellants to the show cause orders.

L. Shirley Wilson v. Cabinet for Health and Family Services

M. Cheryl Logsdon v. Tourism, Arts and Heritage Cabinet

Mr. Hutcheson moved to find that the Appellants had not responded to the show cause order and that the recommended orders be accepted dismissing the appeals for failure to timely prosecute the appeals. Ms. Gardner seconded and the motion carried 7-0.

9. **WITHDRAWALS**

Dr. Stevens moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Judge Chandler seconded and the motion carried 7-0.

- A. Lula Duerson v. Cabinet for Health and Family Services
- B. Lori Durham v. Personnel Cabinet
- C. Lemon C. Moore v. Personnel Cabinet
- D. Mark Nagel v. Personnel Cabinet
- E. Elizabeth Shelton v. Personnel Cabinet
- F. Treasia Robertson v. Cabinet for Health and Family Services

10. **SETTLEMENTS**

Ms. Gardner moved to accept the following settlements *en bloc* and to accept the settlements as submitted by the parties; sustaining the appeal to the extent set forth in the settlement. Mr. Blevins seconded and the motion carried 7-0.

- A. Kerry Allen v. Tourism, Arts and Heritage Cabinet
- B. Robert Redmon v. Justice and Public Safety Cabinet, Department of Corrections (4 appeals)

11. **OTHER**

Board Meeting Dates for 2012

The Board members discussed the proposed meeting dates for calendar year 2012. It was decided that the Board would meet the second Friday of each month with the exception of May and June. The dates selected were: January 13, February 10, March 9, April 13, May 14 [Monday], June 18 [Monday], July 13, August 10, September 14, October 12, November 9, and December 14.

Chairman Sapp advised that both Mr. Sipek and Mr. Crocker were nominated for the Governor's Ambassador Award. The ceremony is scheduled for October 6, 2011, at 11:30. Mr. Sipek stated that all the mediators with the Kentucky Employees Mediation Program were nominated.

There being no further business, Mr. Blevins moved to adjourn. Judge Chandler seconded and the motion carried 7-0. (12:37 p.m.)

Wayne D. Sapp, Chairman

Larry B. Gillis, Vice Chairman

David B. Stevens, Member

David F. Hutcheson, Jr., Member

Susan Gardner, Member

Tommy Chandler, Member

Donald W. Blevins, Member